

SERVICE DATE – FEBRUARY 1, 2019

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36251

PROGRESSIVE RAIL INCORPORATED—LEASE EXEMPTION WITH INTERCHANGE
COMMITMENT—SOO LINE RAILROAD COMPANY AND DAKOTA, MINNESOTA &
EASTERN RAILROAD CORPORATION

[REQUEST FOR WAIVER OF 49 C.F.R. § 1150.42(e)]

Digest:¹ This decision denies as moot a petition to partially waive the 60-day advance notice requirement to permit Progressive Rail Incorporated's exemption to lease approximately 42 miles of rail line in Minnesota to take effect early.

Decided: January 30, 2019

On December 10, 2018, Progressive Rail Incorporated (PGR), a Class III rail carrier, filed a verified notice of exemption under 49 C.F.R. § 1150.41 to (1) renew its lease from Soo Line Railroad Company (Soo Line) and Dakota, Minnesota & Eastern Railroad Corporation (DM&E)² and continue to operate approximately 33 miles of rail line in Minnesota; and (2) lease from Soo Line and DM&E and continue to operate approximately nine miles of rail line in Minnesota. PGR filed its certification that it had provided notice of the proposed transaction pursuant to 49 C.F.R. § 1150.42(e) on November 15, 2018. Because the Board's regulations require that this notice be provided at least 60 days before the exemption can become effective, the exemption could take effect no earlier than January 14, 2019. However, concurrently with its notice of exemption, PGR filed a petition to partially waive the notice requirements to allow the exemption to take effect on January 9, 2019.

Due to the partial shutdown of the Federal government from December 22, 2018, through January 25, 2019, the Board was not able to take timely action on PGR's petition for partial waiver and the exemption became effective on January 14, 2019. In light of the fact that PGR's notice of exemption has now become effective, PGR's petition for partial waiver will be denied as moot.

¹ The digest constitutes no part of the decision of the Board but has been prepared for the convenience of the reader. It may not be cited to or relied upon as precedent. See Policy Statement on Plain Language Digests in Decisions, EP 696 (STB served Sept. 2, 2010).

² Soo Line and DM&E are affiliated railroads under common control of Canadian Pacific Railway Company. Canadian Pac. Ry.—Control—Dakota, Minn. & E. R.R., FD 35081 (STB served Sept. 30, 2008).

It is ordered:

1. PGR's request for waiver is denied as moot.
2. This decision is effective on its date of service.

By the Board, Board Members Begeman, Fuchs, and Oberman.